

# CALIFORNIA ACUPUNCTURE BOARD

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State of California  
Department of Consumer Affairs  
Gray Davis, Governor



(Approved March 12, 2003)

## ACUPUNCTURE BOARD MEETING MINUTES

November 18, 2002  
Hilton Pasadena  
Pasadena, CA

### Full Board Meeting November 18, 2002

#### **MEMBERS OF THE BOARD**

Pei Li Zhong-Fong, L.Ac., Chair  
Michael Eng, Vice-Chair  
Shari Asplund  
Joan C. Chang, L.Ac.  
Min M. Chang  
Howard Moffet, L.Ac.  
Justin Tin

#### **STAFF PRESENT**

Marilyn Nielsen, Executive Officer  
Don Chang, Legal Counsel  
Janelle Wedge, Administrative Coordinator  
Nancy Molinar, Education Coordinator  
Christy Dohring, Examination Coordinator

#### **MEMBERS ABSENT**

None

#### **GUEST LIST ON FILE**

#### **1. Call to Order and Establishment of a Quorum (P.Zhong-Fong, Chair)**

Vice-Chair, Michael Eng called the Acupuncture Board Meeting to order at approximately at 8.00 a.m. Roll was taken and a quorum established. Justin Tin and Pei Li Zhong-Fong arrived at approximately 8:30 a.m.

#### **2. Chair's Report – Pei Li Zhong-Fong**

Ms. Zhong-Fong indicated that the Board has many important issues mandated by the legislature to comply with in the coming months. SB 1951 has mandated the Board to study and recommend a way to improve the frequency and consistency of auditing and also to improve the quality and relevance of the Continuing Education courses. This would insure that the licensed acupuncturist to continue to update their knowledge and clinical skills. Ms. Zhong-Fong reported that the Board should conduct a comprehensive study of the use of unlicensed acupuncture assistants. An initial survey showed 10% of the acupuncturists who responded are using an assistant in their practice. The issue needs to be defined what these assistants are allowed to do and insure they have the appropriate training to perform those services safely. Ms. Zhong-Fong stated that Ms. Nielsen and herself met with James Mayer, Executive Director of the Little Hoover Commission and Hattie Hanley, Project Manager to discuss a time frame, March or April 2003, in which the Board will submit information. Ms. Zhong-Fong indicated that she and Ms. Nielsen attended a meeting with the Consumers Affairs Legal Department regarding the reduction of legal services available to all the boards to the lose of three position in the legal unit because of the decreasing budget.

**3. Executive Officer's Report – Marilyn Nielsen**

Ms. Nielsen reported per Board directive from the September 25, 2002 Board meeting a Northern California Enforcement Taskforce meeting has been scheduled for December 10, 2002 in Oakland hosted by the Oakland Attorney's General office. Invitations have been sent out and will be limited to enforcement regulatory personnel. Ms. Nielsen stated that in the past that the Board members have not participated and she suggest it would be appropriate for the Chair or Vice-Chair to attend along with the Executive Officer, Enforcement Coordinator and Legal Counsel. Ms. Nielsen announced that the licensing exam for the summer of 2003 has been changed from June 9, 2003 to August 13, 2003 and notices have been sent out to all the schools. Ms. Nielsen reported that she and Ms. Zhong-Fong attended a meeting on November 12, 2002 with the DCA legal unit, to discuss the budget impact and reduction of legal services. Doreatha Johnson, Deputy Director of the Division of Legal Affairs hosted the meeting along with Don Chang from Legal Services. Ms. Johnson discussed workload, staff reductions, new budget revisions and how they have effected all the agencies. She suggested how the board could process differently and to use alternatives.

**4. Approval of September 24-25, 2002 Meeting Minutes**

**HOWARD MOFFET MOVED AND SHARI ASPLUND  
SECONDED THE MOTION TO APPROVE THE SEPTEMBER  
24-25 MINUTES AS AMENDED.  
MOTION PASSED UNANIMOUSLY**

**5. Set 2003 Acupuncture Board Meeting Dates and Locations**

The Board selected the 2003 Board meetings dates as follows: March 12 and 13 in Sacramento area, June 24 and 25 in the Pasadena area, September 15 and 16 in the San Francisco area and December 2 and 3 in Pasadena area.

**6. Election of Officers for 2003**

Shari Asplund nominated Pei Li Zhong-Fong as 2003 Chair to the Acupuncture Board.

**SHARI ASPLUND MOVED AND MICHAEL ENG SECONDED  
THE MOTION TO NOMINATE PEI LI ZHONG-FONG AS THE  
BOARD CHAIR FOR 2003  
MOTION PASSED UNANIMOUSLY**

Michael Eng nominated Shari Asplund as 2003 Vice Chair to the Acupuncture Board.

**MICHAEL ENG MOVED AND JOAN CHANG SECONDED THE  
MOTION TO NOMINATE SHARI ASPLUND AS THE BOARD  
VICE CHAIR FOR 2003  
MOTION PASSED UNANIMOUSLY**

Outgoing Vice-Chair Michael Eng stated that this last year has been the most challenging of his life and thanked the Board and staff for their help.

**7. HEARING: PETITION FOR REINSTATEMENT**

**Petitioner: Vincent Yun Sheng Lee (Case No. K-1A-1998-96)**

**8. CLOSED SESSION:** Pursuant to Government Code Section 11126 (c)(3) to discuss/take action on disciplinary actions.

**9. Enforcement Business – (Discussion/Action)**

**a. Consumer Complaint Disclosure – Taryn Smith, Special Aide to the Director of the Department of Consumer Affairs**

Taryn Smith, representing the DCA, briefly reviewed the Department's recommended Consumer Complaint Disclosure Policy submitted to all DCA boards for their consideration. DCA held several public hearings, and evaluated written and oral testimony, which led to drafting and adopting the final policy in July 2002. Ms. Smith recommended the Board review its current policy and evaluate if disclosure could occur at an earlier point in the legal process prior to an accusation being filed with the Attorney General's (AG). She also stated samples and decisions from other Boards should be available by March 2003. Adrienne Patton, Supervising Attorney General explained the process and time frames the AG's office once a board forwards a case to them. He recommended the Board consider public disclosure at the time the Supervising AG accepts and assigns the case, which is within 15-30 days from receipt of the case, rather than at the time the accusation is filed by the Deputy AG, which doesn't occur for four to six months from receipt of the case. Mr. Patton indicated that to his knowledge the AG's office has seldom rejected a case filed by the Board. Mr. Eng expressed concern that the associations had not responded to the two requests the Board has sent soliciting input into DCA recommended policy.

**Public Comment:**

Ta Fan Chen, L.Ac., CCAA, commented the profession supports public protection and disclosure of enforcement actions, but that the profession wants to also be protected and ensure truthful enforcement info is released.

**10. Examination Business (Discussion/Action)**

**a. National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) – Presentation by Christina Herlihy, CEO**

Christina Herlihy, CEO of NCCAOM, gave a presentation on various reasons to look to the national structure for testing competence and indicated that in the past two years NCCAOM has been involved in a periodic review for rectification. Ms. Herlihy explained the different setup of exams, which were modular in nature. Joan Chang questioned the education hours of NCCAOM required for acupuncture, herbs and bodywork examination. Ms. Herlihy stated that the acupuncture exam is required 1,750 hours, and herbs and bodywork are separate exams and doesn't need additional education hours for the three tests. Shari Asplund questioned if NCCAOM had any problems with our Office of Examination Resources. She further stated she was very concerned about untruths being said about the Board at hearings, i.e., Sunset hearings and Nevada legislature. Ms. Herlihy commented that mutual understanding remains mysterious to both parties. The review by The Little Hoover Commission is a significant opportunity for both to understand each other better.

**Public Comment:**

Deke Kendell, CA practitioner commented that oriental medicine is a complete medicine and it cannot be fractionated in parts. (ie, acupuncture, herbs, body, etc). Mr. Kendell further indicated that the acupuncture portion of the national examination was very easy, herb portion was more rigorous and the cost is prohibitive.

Kevin McNamee questioned NCCAOM on their job analysis and indicated they can often be self-serving.

Lily Ko, L.Ac., indicated that NCCAOM examination is very expensive, the questions are very easy, and feels you can close your eyes and pass the test. Ms. Ko asked the board not to lower requirements by accepting NCCAOM examination.

Neil Miller challenged NCCAOM to put together a credible test and credible proposal. In the meantime, recommended the Board to reject NCCAOM examination and will also make the same recommendation to the Little Hoover Commission.

Ta Feng Chen commented that ACAOM doesn't have the power to go to other states regarding the standards. It should be up to the licensing board. California should not drop their high standards and go to lower standards.

Howard Moffet stated that Christina Herlihy came to help share information with the California Board. He stated he felt individuals are fearful that the national examination is being thrown at them and that is not the case.

**b. Discussion with Tracy Ferrel, Manager, Department of Consumer Affairs, Office of Examination Resources, Regarding the California Acupuncture Licensing Examination (CALE)**

**1. Composite of CALE**

Tracy Ferrel, manager of Office of Examination Resource (OER) introduced herself and her background and services performed by OER. Ms. Ferrel stated that the purpose of the Occupational Analysis is to make a blueprint of the exam for competence and safety.

**2. Performance of Current CALE**

Ms. Ferrel stated that the English continues to be satisfactory, high and reliable. The overall difficulty of the exams is in the challenging range. OER looks at individual items to make sure they function properly.

**3. Releasing Pass/Fail Results on Each Component of CALE**

Ms. Ferrel stated that OER could explore with the board a reasonable feedback on each component of the exam. A sample handout was given to each board member to review. OER is making modifications to their system to generate the data, which is targeted for the summer 2003 CALE results.

Michael Eng, Vice-Chair stated that the previous speaker made some interesting statements that he would like to hear Ms. Ferrel's response to.

- Would OER be able to justify the validity of CALE? Ms. Ferrel responded yes.
- Do you see any reasons to use Nationals? OER has performed audits on national exams. They haven't experienced any problems. The audit would have to be performed by the board.
- Do you see any problems with the current examination? With English none. Being the fact that she is new, Ms. Ferrel would like to make an evaluation of this issue after she has had a chance to observe a couple of exams.
- What is your opinion of the practical exam? The trend in testing is to stay away from oral or practical exams. It is better to develop multiple choice questions that simulate practical exams.

**Public Comment:** Ryan Albien student body representative stated he had a petition supporting pass/fail results revealing scores by component area. Neal Miller stated he understood Dr. Hertz, former Manager of OER, performed a review of the national exam. Comments he heard about the last CALE was that it was tough, but fair.

#### **11. Administrative Business – (Discussion/Action)**

##### **a. 2003/2004 BCP – Attorney General Augmentation**

Marilyn Nielsen informed the Board that the Department of Finance (DOF) took a hard line on BCP's this year and the Board's BCP for an attorney general augmentation was returned. Ms. Nielsen commented that she was concerned that she would be legally liable for cases not pursued due to insufficient funds. Don Chang clarified that Ms. Nielsen would not be legally liable and that there are specific immunities that protect her.

##### **b. Little Hoover Commission – Implementation of SB 1951**

Marilyn Nielsen informed the Board that the Little Hoover Commission (LHC) had encouraged the Board to put together data to present to them. As a result, Ms. Nielsen sat down with staff and based on the four issues LHC is focusing on, came up with data to be included in a report. Ms. Nielsen asked the Board if there was any specific data they would like to be included in the report. The Board asked to be provided with the staff's list of data at the next Board meeting to see if any additional data was necessary.

##### **c. Implementation of the Requirements of AB 1943**

Marilyn Nielsen explained that AB 1943 requires the implementation of the 3,000 curriculum hours. In order to accomplish this, Ms. Nielsen informed the board that she needs their authorization to proceed with a regulatory package to increase the hours.

**SHARI ASPLUND MOVED AND MIN M. CHANG SECONDED  
TO GIVE AUTHORITY TO THE EXECUTIVE OFFICER TO  
BEGIN A REGULATORY PACKAGE TO INCREASE THE  
CURRICULUM HOURS.  
MOTION PASSED UNANIMOUSLY.**

#### **12. Education Business - (Discussion/Action)**

##### **a. School Approval & Site Visit Report – Pacific College of OM, Chicago, Illinois**

Marilyn Nielsen and Lloyd Wright visited Pacific College of Oriental Medicine, Chicago campus on October 16-18, 2002. The program content, policies and procedures are mirrored at each of the PCOM Board approved campuses in San Diego and New York. Ms. Nielsen reviewed the school site visit report provided in the board packet.

**HOWARD MOFFET MOVED AND SHARI ASPLUND  
SECONDED TO GRANT FULL APPROVAL TO PACIFIC  
COLLEGE OF ORIENTAL MEDICINE – CHICAGO, ILLINOIS,  
FOR THEIR MASTER OF TRADITIONAL ORIENTAL  
MEDICINE (MTOM) DEGREE PROGRAM.  
MOTION PASSED UNANIMOUSLY**

##### **b. School Re-Visit – Southern California University, School of Oriental Medicine and Acupuncture, Los Angeles, California**

At the March 12, 2002 Board meeting the Board voted to extend the conditional approval of the Master of Science and Oriental Medicine at Southern California University, School of Oriental Medicine and Acupuncture until December 31, 2002. On October 25, 2002 Pei-Li Zhong-Fong and Nancy Molinar performed the school site revisit. Ms. Molinar reviewed the school site visit report provided in the board packet.

**SHARI ASPLUND MOVED AND MIN M. CHANG SECONDED TO GRANT FULL APPROVAL TO SOUTHERN CALIFORNIA UNIVERSITY SCHOOL OF ORIENTAL MEDICINE AND ACUPUNCTURE —LOS ANGELES, FOR THEIR MASTER OF SCIENCE AND ORIENTAL MEDICINE (MSOM) DEGREE PROGRAM.  
MOTION PASSED UNANIMOUSLY**

**c. Emperor's College Proposed Externship with Beijing Chinese Traditional Medicine Hospital in Beijing, China**

Emperors College is seeking to enhance the experience of their students by creating an opportunity for them to study with practitioners of Chinese Traditional Medicine in Beijing Traditional Chinese Medicine Hospital in Beijing, China. This opportunity is being offered to Level 2 interns, in June and September 2002/2003. The Board requested Emperor's to submit the following: the number of students attending the externship in Beijing, China, the total amount of fees charged to each student, and the amended affiliation agreement between Emperor's and Beijing TCM Hospital reflecting master degree student not doctoral candidate.

**MICHAEL ENG MOVED AND MIN M. CHANG SECONDED TO APPROVE EMPEROR'S COLLEGE EXTERNSHIP PROGRAM AT CHINESE TRADITIONAL MEDICINE IN BEIJING TRADITIONAL CHINESE MEDICINE HOSPITAL IN BEIJING, CHINA.  
MOTION PASSED UNANIMOUSLY**

The Board requested that Emperor's send a representative to report the outcome of the Beijing externship to the Board meeting in June.

**d. Meiji College**

Ms. Nielsen reported that Meiji College located in Berkeley would discontinue the Masters of Science and Oriental Medicine degree program on March 24, 2003. American College of Traditional Chinese Medicine (ACTCM), located in San Francisco, is looking into the details and responsibility of offering a teach-out program to Meiji's students. Both Meiji College and ACTCM will continue to notify the Board of the progress they are making in this direction. In addition, Ms. Nielsen indicated the Board has asked to attend any special meetings that have been arranged with ACTCM, their Board of Directors, Accreditation Commission of Acupuncture and Oriental Medicine, Department of Education, and Bureau for Private Postsecondary and Vocational Education.

**e. School Approval Process**

Not discussed.

**f. Proposal to Establish a Postceptorship Program – Kevin McNamee, D.C., L.Ac.**

Not discussed.

**g. Proposal to Require Clinical Interns to Perform a Minimum Number of Physical Examinations – Kevin McNamee, D.C., L.Ac.**

Not discussed.

**13. Public Comment Period:**

Eric Lee, ASP President at Samra University of Oriental Medicine. Mr. Lee representing the student body had concerns for the State Board exam verses the National exam. Mr. Lee indicated that Samra comprehensive exit exam is comparable to the national exam and the students will be watching the Board to see what develops. Mr. Lee noted that the Board decision to change the exam dates had an effect on the students and explained the hardship financially and academic it played upon them and in addition suggested the Board would hold the exams at various sites throughout California.

Neal Miller stated that 3 ACAOM accredited schools are closing and feels that it is important that the Board maintains the approval and site visits.

**14. Adjournment**

The Acupuncture Board meeting was adjourned at approximately 5:45 p.